What the Grand Jury Owes to the Community

BY HON. ADOLPH J. RODENBECK
Justice of the Supreme Court of New York

THIS is the last grand jury charge that I shall have the honor of delivering during my term of office, and, I wish to reassert, reaffirm and emphasize all that I have previously stated and urged with reference to the importance of the duties of a grand jury in relation to the enforcement of the law.

Unfortunately, due to a misconception of the relation of the State to the enforcement of a Federal statute, the merits of which are the subject of so great a variance of opinion, the local State enforcing officers have lapsed into a condition of apathy with relation to its enforcement, and, publicly tolerate its violations, not only the subordinate local officers, but the officers higher up in authority, who would be loathe to be charged with a violation of their oath of office which is to defend and support the constitution and to uphold the laws of the land.

The extent to which this condition of the non-enforcement of the Federal Amendment is responsible for the widespread and dangerous growth of criminal operations, may be a debatable question, but there is no doubt that this non-enforcement has not aided the suppression of other crimes, which, now, seem to permeate and honeycomb the very existence of the social fabric.

The full effect of refusing to assist the Federal government was not appreciated, when the enforcing statute in this State was repealed, and, it was, perhaps, thought that the violation of law which it encouraged, would be confined to the Eighteenth Amendment, but the experience, since then, has shown that this refusal has abetted, encouraged, and stimulated the violation of other laws, until these violations and, so called, racketeering, have reached into nearly every phase of life, have become dignified, almost, as a legitimate means of livelihood, and have nearly exceeded the control of local police officers, enforcing their lines of operation with the sawed-off shotgun and the machine gun, reaching their slimy and criminal fingers even

As Presented in His Charge to the Grand Jury of Seneca County, Ovid, New York

under the judicial robe and bartering with judicial officers in the dispensation of justice.

This widespread result was not foreseen by those who refused to lend the arm of the State to the enforcement of a provision of the Federal constitution, and, they, and not the Federal constitution, must take the responsibility for the rampant condition of criminal operations which is terrorizing some parts of the country and rousing the people to organization and measures resorted to only when the public authorities seem to be unable to cope with the lawless element.

Without regard to the merits or demerits of the Eighteenth Amendment, the refusal of local officers to enforce its provisions, and their acquiescence in its violation, almost under the shadow of the municipal hall, the courthouse, and police station, is so opposed to the security and perpetuation of our American institutions, which rest so largely upon the observance and enforcement of the law, that no reasonable argument can be presented in opposition. We must either enforce all the laws or sink and wallow in the mire of criminal violations, in which we now find ourselves. There is no safe middle course. We cannot enforce part of the laws, and expect the remainder to be observed or to preserve that respect for governmental control, upon which the stability of our institutions, the rights of property and the security of religion, liberty, and life depend.

It is not so much a reform that furnishes the remedy for maladministration, but the recall of public officers who are not willing to do their duty in the simple, honest, competent, and effective enforcement and administration of existing laws.

The disregard and violation of this principle of law enforcement, so essential to governmental stability, has brought us to the pass in which we now find ourselves, and, the sooner we get back to this principle, the sooner will the evils that now

confront us be successfully combated, and the state of American life be restored to a normal and healthful condition.

If we want protection for the rights of life, liberty, property, and happiness, that is guaranteed to us by the Federal and State constitutions, we cannot secure it by inviting a violation of the Federal constitution and winking at wholesale dishonesty, wickedness, and racketeering, that has become such a menace in the larger communities and is reaching out into other parts of the country, or, by enforcing only a part of the laws against crimes, or, only spasmodically, or, not at all, or, only, when the public conscience becomes aroused to the point of resistance.

The remedy for the condition of criminal activity that exists is very simple, so simple and obvious, that it seems almost absurd to suggest it. The machinery for compelling the observance of law is all installed and in working order, but, it is not functioning as it should function. The trouble is not with the governmental equipment for law enforcement, but, with its operation. Those intrusted with the enforcement of the law, where there is a breakdown in this respect, are incompetent, inefficient, or, to speak plainly, wink at, condone, excuse, or, still more plainly, profit from, its existence.

A good district attorney, a fearless grand jury, and an honest petit jury, can do much to frighten the professional criminals out of a county. A good police force, backed by an honest chief of police, and supported by fearless municipal heads, can make a city so uncomfortable for law offenders that it will not be safe for the professional criminals to operate there. By the active operation of the machinery now provided for enforcing the laws, this country could be made so unpleasant for the criminal classes that they would either migrate or be put out of business.

The conclusion that effective law enforcement will suppress crime, and that such enforcement is possible, must be admitted, or, else, we must concede that this government "of the people, for the people and by the people" has broken down, and that we are at the mercy of the vicious and the criminal classes. When that time comes, martial law will assert itself and vigilance committees will take the place of the duly constituted governmental agencies.

When we are reflecting upon the question of enforcing duly enacted provisions of law, we should bear in mind and consider the theory of our government, as expressed by Theodore Roosevelt, when he said:

> "Ours is a government of liberty, but, it is a government of that orderly liberty that comes by and thru the honest enforcement of, and obedience to, laws."

The remedy lies with the people to see that we get this "orderly liberty" that this distinguished former president speaks of, and, you are here representing a part of the people who have a right to expect this

(*Continued on page twenty-four*)

Strauss Portrait, St. Louis

GUY A. THOMPSON, ESQ.
President, American Bar Association

The Fame of Chief Justice Taney

BY EDWARD S. DELAPLAINE

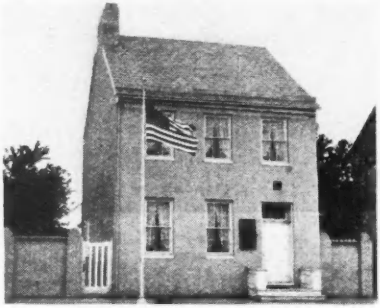
President, Roger Brooke Taney Home, Inc.

YEARS ago, when attacked with scurrilous abuse after the celebrated Dred Scott decision, Chief Justice Taney wrote as follows to ex-President Pierce:

> "At my time of life when my end must be near, I should have enjoyed to find that the irritating strifes of this world were over, and that I was about to depart in peace with all men and all men in peace with me. Yet perhaps it is best as it is. The mind is less apt to feel the torpor of age when it is thus forced into action by public duties. And I have an abiding confidence that this act of my judicial life will stand the test of time and the sober judgment of the country."

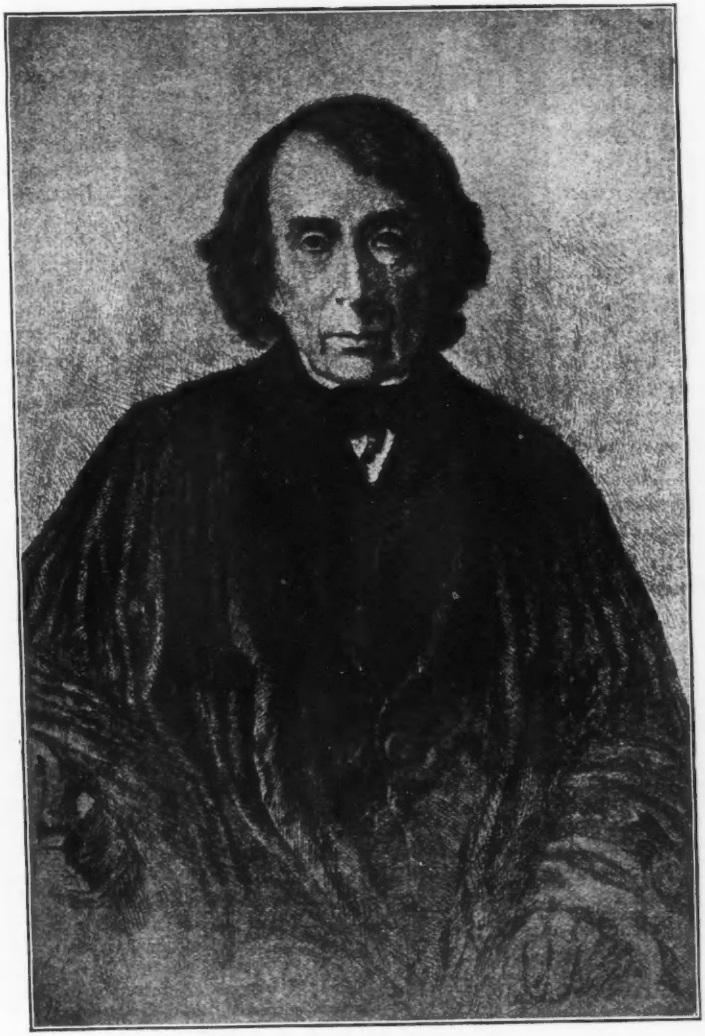
The attacks upon the aged Chief Justice — Taney was 80 when he handed down the Decision in the Dred Scott case— have been silenced for half a century. Today the only criticism of Taney comes from the historians, and even they come to Taney's defense when his integrity is impugned. For example, one of Taney's biographers, Bernard C. Steiner, who criticizes Taney for removing the Government deposits from the United States Bank while Secretary of the Treasury and for the decision in the Dred Scott case, declares that the charges of conspiracy against Chief Justice Taney and President Buchanan in connection with the Dred Scott case were absolutely groundless and that Taney's character was absolutely beyond reproach.

Each year the name of Roger Brooke Taney grows brighter in the annals of jurisprudence and on the pages of history. In contrast with fifty years ago, when he was the subject of terrible vilification, Taney now ranks side by side with John Marshall as a jurist.



CHIEF JUSTICE TANEY'S HOME
FREDERICK, MD.

In 1930 the old home of Taney in Frederick, Maryland, was opened as a national



R. B. Taney

shrine. It is a memorial to the Chief Justice and his famous brother-in-law, Francis Scott Key, whose song of victory, "The Star-Spangled Banner," has been officially adopted as the National Anthem by Congressional Act approved on March 3, 1931, by President Hoover.

Wide World Photo

CHIEF JUSTICE HUGHES AND GOV. RITCHIE OF MARYLAND
At the unveiling of Taney Memorial in Frederick, Md.

Shortly after the opening of Taney's old home and slave quarters, it was our pleasure to place in the drawing room a large oil painting of the inaugural scene of 1861, showing Taney administering the Presidential oath to Abraham Lincoln that he would "preserve, protect and defend the Constitution of the United States." During the unveiling ceremony, addresses were made by three prominent speakers—a college president, a lawyer, and a historian. The historian, Dr. Matthew Page Andrews, made this statement during the course of his address:

> "Unlike his famous predecessor, Chief Justice Marshall, Roger Brooke Taney is yet to come into his own . . . Yes, the fame of Chief Justice Taney is destined to increase, as the years go by; and all Marylanders, all Americans, are under obligation to those who have so successfully inaugurated the movement to preserve as an American shrine the house that Taney, the citizen, called home."

The main facts in the life of Taney are as follows:

1777—Born in Calvert County, Maryland;

1795—Graduated from Dickinson College, Carlisle, Pennsylvania:

1799—Admitted to the Bar and elected to the Maryland Legislature;

1801—Commenced the practice of law in Frederick, Maryland;

1806—Married Anne Key, the only sister of Francis Scott Key;

1816–1821—Member of the Maryland Senate from Frederick County;

1827–1831—Attorney General of the State of Maryland;

1831–1833—Attorney General of the United States;

1833—Appointed Secretary of the Treasury, directed that Government deposits shall not be made in the Bank of the United States;

1834—His nomination rejected by the United States Senate, resigned as Secretary of the Treasury;

1836—Became Chief Justice of the United States Supreme Court, succeeding John Marshall;

1857—Delivered the decision in the celebrated Dred Scott case;

1861—Administered the Presidential oath to Abraham Lincoln;

1864—Died in Washington, D. C.

The paradox in Taney's life comes vividly before the eyes of the visitor at Chief Justice Taney's home when he sees on the whitewashed walls of the slave quarters the manumission papers showing that Taney—the stern jurist who was accused in the North of being a heartless believer in slavery—gave freedom to his own slaves. And before leaving the shrine the visitor's attention is directed to the docket entry in the Gruber case, in which Rev. Jacob Gruber was charged with attempting to instigate negro slaves to "commit acts of mutiny and rebellion in the state," and in which Taney, as one of his counsel in 1819—thirty-eight years before the Dred Scott decision—declared that slavery was a blot on American civilization.

SLAVE QUARTERS AT TANEY HOME

"A hard necessity, indeed," said Taney in this early case at Frederick, "compels us to endure the evil of slavery for a time. It was imposed upon us by another nation, while we were yet in a state of colonial vassalage. It cannot be easily or suddenly removed. Yet, while it continues, it is a blot on our national character; and every real lover of freedom confidently hopes that it will be effectually, though it must be gradually, wiped away; and earnestly looks for the means by which this necessary object may be best attained. And until it shall be accomplished, until the time shall come when we can point without a blush to the language held in the Declaration of Independence, every friend of humanity will seek to lighten the galling chain of slavery, and better, to the utmost of his power, the wretched condition of the slave."

Still eager to pay further tribute to Chief Justice Taney, the people of Frederick formed a committee to raise funds for the erection of a monument to Taney. The monument was unveiled in front of the Court House in Frederick on September 26, 1931, with Chief Justice Hughes as the speaker.

The tablet on the monument bears the following inscription:

CHIEF JUSTICE OF THE UNITED STATES
1836–1864
SECRETARY OF THE TREASURY
1833–1834
ATTORNEY GENERAL OF THE UNITED STATES
1831–1833
ATTORNEY GENERAL OF MARYLAND
1827–1831
CITIZEN OF FREDERICK AND LAWYER PRACTICING IN THE FREDERICK COUNTY COURT
1801–1823
BORN IN CALVERT COUNTY
MARCH 17, 1777
DIED IN WASHINGTON, D. C.
OCTOBER 12, 1864
BURIED IN ST. JOHN'S CATHOLIC CEMETERY
FREDERICK, MD.

Among the New Decisions

Adverse possession — *husband's occupancy as adverse to wife.* The Rhode Island supreme court in Kelly v. Kelly, — R. I. —, 74 A.L.R. 135, 153 Atl. 314, reached the conclusion that the occupancy of the husband is not adverse to the title of his wife, and is not, however, long continued, a basis for acquiring title by possession.

The question, may adverse possession be predicated upon use or occupancy by one spouse of real property of another is discussed in the annotation following this case in 74 A.L.R. at p. 138.

Assault — *unloaded fire arm as dangerous weapon.* The Wisconsin supreme court has held that an unloaded revolver merely pointed at a person is not a dangerous weapon within the meaning of a statute prescribing the penalty for assault and robbery while armed with a dangerous weapon. Luitze v. State, — Wis. —, 74 A.L.R. 1202, 234 N. W. 382.

An annotation on this question appears in 74 A.L.R. at p. 1206.

Assignment — *corporation's right of action against directors.* The California court has recently held in Peterson v. Ball, — Cal. —, 74 A.L.R. 187, 296 Pac. 291, that the right of the corporation under a statute in that regard to sue directors for creating debt in excess of the prescribed capital stock is not assignable.

An annotation on this question appears in 74 A.L.R. at p. 200.

Automobile — *gross negligence within meaning of statute.* The Michigan supreme court in Naudzius v. Lahr, 253 Mich. 216, 74 A.L.R. 1189, 234 N. W. 581, has held that gross negligence in permitting an inexperienced person to drive an automobile will not render the owner liable under the statute exonerating him from liability for injury to a guest unless proximately caused by gross negligence or wilful and wanton misconduct, if the driver himself was guilty of no negligence or of only ordinary negligence.

An annotation on this question begins in 74 A.L.R. p. 1198.

Automobiles — *Injury to guest of driver.* The Ohio court in Union Gas & Elec. Co. v. Crouch, 123 Ohio St. 81, 74 A.L.R. 160, 174 N. E. 6, has recently held that in the absence of evidence tending to prove that an invitee of the driver was rendering necessary assistance to such driver in his status as servant, the master is not liable for injuries to such guest by the negligence of the servant where such

guest is riding without the knowledge or consent of the master.

An annotation on this question appears in 74 A.L.R. p. 163.

Bills and notes — *effect of pledgee's failure to enforce collateral on accommodation indorser.* The Utah court in Felkner v. Smith, — Utah —, 74 A.L.R. 124, 296 Pac. 776, held that an accommodation indorser is not relieved from liability on a note because the holder did not, upon his request, foreclose the chattel mortgage upon cattle in possession of the maker of the note, given to secure its payment.

The effect of the failure to enforce collateral security as releasing indorser, surety or guarantor, is discussed in an annotation in 74 A.L.R. p. 129.

Carriers — *negligence of employees of other companies using lines.* In Southern Ry. Co. v. Hussey, 74 A.L.R. 1172, 42 F. (2d) 70, the circuit court of appeals of the Eighth Circuit held that a carrier is liable for injuries to a passenger occasioned by the negligence of another railroad company with respect to the conditions, or operation by the employees of such company, of a switch, which it was the duty of such company to install or maintain under a contract, authorized by the laws of the state, between the two companies, whereby one granted the other the use of a portion of its lines.

An annotation on this question appears in 74 A.L.R. at p. 1178.

Carriers — *limitation of liability as to goods never received.* In Oliver Straw Goods Corp. v. Osaka Shosenkaisha, 74 A.L.R. 1378, 47 F. (2d) 878, a provision of a maritime bill of lading limiting the amount of liability of the carrier was held not to apply where a cargo has been lost before being placed on board the vessel.

The annotation in 74 A.L.R. at p. 1382 discusses the effect of value limitation clause in bill of lading or shipping receipt for goods misdescribed therein or not received by the carrier.

Confessions — *intoxication of person making.* In Bell v. United States, 74 A.L.R. 1098, — App. D. C. —, 47 F. (2d) 438, the District of Columbia court held that the fact that a confession is made while the person making it is under the influence of liquor, but not to the extent of mania, does not render it inadmissible, though such intoxication may affect its weight and credibility.

Intoxication of accused at the time of making confession as affecting its admissibility is the subject of the annotation in 74 A.L.R. at p. 1102.

Conflict of laws — *remedy for breach of contract.* The Michigan court in Mt. Ida School for Girls v. Rood, 253 Mich. 482, 74 A.L.R. 1325, 235 N. W. 227, recently held that the enforcement in one state of a contract made in another being dependent entirely upon judicial comity, the remedies and proceedings are governed entirely by the law of the forum.

The subject of the annotation in 74 A.L.R. at p. 1331 is conflict of laws as to character, form, and nature of action which may be brought upon a foreign contract.

Constitutional law — *city council's right to fix damages in eminent domain proceedings.* In Re Third Street (1929) 177 Minn. 146, 74 A.L.R. 561, 225 N. W. 86, the provisions in the city charter whereby the city council was authorized to fix and affirm the amount of damages for the taking of land in a condemnation proceeding, with right of appeal to the district court as therein provided, was held not to violate the Fourteenth

Amendment of the Federal Constitution or the similar provision in the state constitution.

The subject of the annotation in 74 A.L.R. at p. 569 is the constitutionality of provisions as to tribunal which shall fix the amount of compensation for taking of property in eminent domain, otherwise than objections that a trial by jury is necessary.

Constitutional law — *conflict of laws as to due process.* The United States Supreme Court in Home Insurance Co. v. Dick, 281 U. S. 397, 74 L. ed. 926, 74 A.L.R. 701, 50 Sup. Ct. 336, held that the state may prohibit the enjoyment by persons within its borders of rights acquired elsewhere which violate its laws or public policy, and under some circumstances may refuse to aid in enforcement of such rights.

The annotation in 74 A.L.R. 710 discusses the Federal Constitution and conflict of laws as to rights not based on judgment.

Contracts — *crop failure as excuse for nonperformance.* According to the Washington court in Snipes Mountain Co. v. Benz Bros. & Co. — Wash. —, 74 A.L.R. 1287, 298 Pac. 714, a seller of potatoes is absolved from liability to deliver the full quantity of potatoes which he has contracted to sell, where only potatoes grown on certain land were in the contemplation of the parties, and, due to a partial crop failure, the land failed to yield a sufficient quantity.

See the annotation in 74 A.L.R. at p. 1289 on this question.

Contracts — *forbearance as sufficient consideration.* The Maine court in Shaw v. Philbrick (1930) 129 Me. 259, 74 A.L.R. 290, 151 Atl. 423, has held that to establish a legal contract to delay enforcement of rights it is not enough to allege and prove the inducement of postponement by a promise, but there must be allegation and proof of a request to forbear, and a promise to forbear, followed by forbearance for the time specified, or for a reasonable time when no definite time is named.

This question is discussed in 74 A.L.R. at p. 293 in an annotation entitled "Validity of promise conditioned upon forbearance or nonexercise of right, without an agreement or other original consideration by promisee."

Contracts — *provision in sale contract for prorating.* The Kansas court in Amsden Lumber Co. v. Stanton, 132 Kan. 91, 74 A.L.R. 990, 294 Pac. 853, held that a contract which provided that one party could sell a certain amount of cement to another party who promised to pay a certain price therefor, and which provided that, in the event the party furnishing the cement should be unable to ship the full amount, then it would have the right to prorate its cement among its several customers, was not void for lack of mutuality.

This question is annotated in 74 A.L.R. on p. 995.

Corporations — *agreement of stockholders to surrender stock.* It has been recently decided that a stockholder who was induced to turn over a part of his stock to the corporation by the promise of other stockholders that they would do likewise cannot, upon their failure to do so, compel a restoration of shares by the corporation on the theory that he is seeking to rescind a contract induced by fraud, where the corporation was no party to such fraud. Shores v. Dakota Montana Oil Co. — N. D. —, 74 A.L.R. 1370, 237 N. W. 172.

See annotation on this question in 74 A.L.R. at p. 1377.

Criminal law — *constitutional right to defense of insanity.* The Mississippi court in Sinclair v. Mississippi,

— Miss. —, 74 A.L.R. 241, 132 So. 581, declared unconstitutional the provisions of a statute providing that the insanity of the defendant at the time of the commission of the crime shall not be a defense against indictment for murder as in contravention of a state constitutional provision as to deprivation of life, liberty or property except by due process of law.

The constitutionality of this type of statute is discussed in the annotation in 74 A.L.R. at p. 265.

Cy près doctrine — *lapse of gift.* If a gift to a specific charitable corporation lapses, it may not be applied cy près unless, from the will or extrinsic evidence, the court may find a general charitable intent beyond that shown by the gift to the specific charitable corporation. Rhode Island Hospital Co. v. Williams, 50 R. I. 385, 74 A.L.R. 664, 148 Atl. 189.

The annotation in 74 A.L.R. 671 deals with general charitable intent as essential to application of cy près doctrine.

Damages — *father's recovery for mental anguish of mother.* Under the principle of law that one person cannot recover for injuries to another unless a representative relation exists between them, it was held in Fuller v. Darnell, — Fla. —, 74 A.L.R. 1, 129 So. 915, that a father could not recover for mental anguish of his divorced wife notwithstanding a statutory provision for recovery by the father in his personal capacity or as legal representative of the deceased minor child of damages for mother's mental pain and suffering, the court viewing such statute as an arbitrary exercise of governmental power that may amount to a denial to the defendant of due process and equal protection of the laws in violation of the constitutional provisions.

An extensive and exhaustive annotation on the question of sentimental losses, including mental anguish, loss of society, or parental care and guidance, as element of damages in actions for wrongful death appears in 74 A.L.R. p. 11.

Divorce — *discretion where statutory grounds established.* The Wisconsin court in Mattison v. Mattison, — Wis. —, 74 A.L.R. 269, 235 N. W. 767, held that where a person has established the grounds necessary to obtain a divorce, the court has no discretion to deny it because of conduct of plaintiff not amounting to incrimination.

An annotation on this question appears on p. 271 of 74 A.L.R.

Divorce — *death of custodian of child.* The New Hampshire court in Leclerc v. Leclerc, — N. H. —, 74 A.L.R. 1348, 155 Atl. 249, has recently decided that a statutory provision that upon the death of either parent, the survivor shall be the sole custodian of the person of the child is not affected by an order made in a divorce proceeding awarding the custody of the child to the other parent.

Right of custody of child as affected by death of custodian appointed by divorce decree is a question discussed in the annotation in 74 A.L.R. 1352.

Drug stores — *statute as to employment of registered pharmacist.* It was held that the fact that the manager of a drug store who was a regular licensed chemist, did not as a rule appear there in the mornings but was present afternoons and evenings, and in the mornings the store was open and other employees were present, but they did not attempt to fill prescriptions or make sales prohibited by statute, was not guilty of a violation of a statute as to the employment of a registered pharmacist. Earnest v. Tennessee, 74 A.L.R. 1081, 36 S. W. (2d) 436.

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Easements — *notice to purchaser of existence of.* The Wisconsin court in Backhausen v. Mayer, — Wis. —, 74 A.L.R. 1245, 234 N. W. 904, decided that the purchaser of land burdened with the way of necessity implied in favor of the grantee of a parcel set off from the highway is not chargeable with knowledge thereof from the fact, disclosed by the records, that both parcels had been formerly owned by his grantor.

Physical conditions which will charge purchaser of servient estate with notice of easement is discussed in the annotation in 74 A.L.R. 1250.

Election of remedies — *cancelation of contract as affecting right of action for fraud.* The Minnesota supreme court in West v. Walker, 181 Minn. 169, 74 A.L.R. 165, 231 N. W. 826, held that the statutory cancelation of an executory contract for the sale of land prevents a subsequent suit by the vendee to recover damages for false and fraudulent representations inducing him to enter into the contract.

An annotation on cancelation or rescission of contracts for vendee's failure to comply therewith as affecting his right in tort as against the vendor for the latter's fraud appears in 74 A.L.R. at p. 169.

Income tax — *oil and gas, royalties, bonuses or other revenues from.* The United States circuit court of appeals for the Tenth Circuit recently decided in Alexander v. King (1931) 46 F. (2d) 235, 74 A.L.R. 174, that the proceeds of oil received by the lessor as royalty under an oil lease are taxable, as ordinary income, and not as capital gains arising from the sales of capital assets held by the taxpayer for more than 2 years, even though the land covered by the lease has been owned for more than 2 years, there being no ownership in oil until it is reduced to possession.

This interesting question is annotated in 74 A.L.R. at p. 183.

Insurance — *insurable interest of receiver.* In Imperial Ins. Co. v. Livingston, — C. C. A. —, 74 A.L.R. 1336, 49 F. (2d) 745, the United States circuit court of appeals for the eighth circuit held that a policy issued to a receiver in bankruptcy after the election and qualification of the trustee, but while the bankrupt's property was still in the receiver's actual care and custody, is not void for want of insurable interest.

The title to the annotation in 74 A.L.R. at p. 1347 is property insurance taken out y, or indorsed to, receiver in bankruptcy or trustee in bankruptcy.

Libel and slander — *admissibility of similar charges by other persons.* The court of appeals of Virginia in Bragg v. Hammack, — Va. —, 74 A.L.R. 723, 155 S. E. 683, held that testimony that other persons published the same or similar libel at the same time is not admissible in an action for libel for the purpose of minimizing the damages.

Annotation in 74 A.L.R. at p. 732 on admissibility in behalf of defendant in action for libel or slander of similar charges made by other persons against plaintiff.

Limitations of action — *when statute begins to run in malpractice cases.* The Minnesota court in Schmidt v. Esser, — Minn. —, 74 A.L.R. 1312, 236 N. W. 622, held that the statute of limitations in malpractice cases begins to run when the treatment ceases.

An annotation on this question appears in 74 A.L.R. at p. 1317.

Malpractice — *limitation statute applicable.* In Missouri according to the decision of the court in Barnhoff v. Aldridge, — Mo. —, 74 A.L.R.

1252, 38 S. W. (2d) 1029, the provision of a limitation statute limiting the time for bringing actions against physicians, etc., for damages for malpractice, error or mistake and not a statute limiting actions on contracts is applicable to an action charging the surgeon with having violated his contract with plaintiff by performing an operation other than contracted for, as a direct and proximate result of which the plaintiff became physically disabled and suffered great pain of body and anguish of mind, and was obliged to undergo additional surgical operation.

The annotation in 74 A.L.R. at p. 1256 discusses what limitation law is applicable to actions against physicians, surgeons or dentists for injuries due to improper treatment.

Master and servant — *fellow servant's failure to do share of lifting.* The Iowa court in Kempe v. Illinois Central R. R. Co. (1930) — Iowa, —, 74 A.L.R. 148, 232 N. W. 657, held that a railroad employee engaged in loading rails on a flat car assumes the risk of injury from strain arising from the failure of his companion, in lifting rails with rail tongs to do his share of the lifting in attempting to free the ends of a rail caught, as it was being slid up on the car, on a pile of rails already loaded.

This question is annotated in 74 A.L.R. 157.

Marital rights — *improvements made by spouse's alienee after death of spouse.* In Blesh v. Wood, 345 Ill. 153, 74 A.L.R. 1162, 176 N. E. 356, the Illinois court held that a widow is not entitled to dower based on increased value of property due to improvements made by her husband's grantee after the husband's death.

An annotation on this question begins in 74 A.L.R. p. 1168.

Miniature golf courses — *license as place of public amusement.* The Massachusetts court in Jafferian v. Kelley, — Mass. —, 74 A.L.R. 403, 175 N. E. 641, held that a miniature golf course is a public amusement within the meaning of a statute providing for the licensing of public amusements and exhibitions of every description to which admission is obtained upon payment of money, although admission to the course is to be free, a green fee being charged to those wishing to make use of the course and an instructor, if desired, is included in the green fee.

This question is annotated in 74 A.L.R. at p. 406.

Motor busses — *expiration of license as affecting bonds.* The Michi-

gan court in Detroit v. Blue Ribbon Auto Drivers Ass'n. — Mich. —, 74 A.L.R. 1306, 237 N. W. 61, held that the liability of a surety for hire on a bond, which a taxicab operator was required to furnish in order to obtain a license, conditioned on the operation of a taxicab in accordance with state laws and city ordinances and on the payment of any judgment arising out of the injury to persons or property caused by its negligent operation, is not limited to acts occurring before the expiration of the license where no such limitation is found in the bonds.

Annotation in 74 A.L.R. p. 1309 discusses this question.

Officers — *death of successor before qualifying.* The Pennsylvania court in Matthews v. Loomas, 302 Pa. 97, 74 A.L.R. 481, 153 Atl. 124, has held that the death of a person before he has qualified according to law to fill an office to which he was elected does not create a vacancy which may be filled by appointment if the incumbent of the office is authorized to hold over until his successor shall be qualified.

See annotation on this question in 74 A.L.R. 486.

Public accountant — *liability to creditors of employer.* Public accountants who have notice from the circumstances of its making that their employer intended to exhibit a financial statement prepared by the accountants, to creditors and investors owe them a duty not to profess knowledge where no knowledge exists and under this theory where a firm of public accountants prepared a statement of the financial condition of a company this duty to third persons is not sufficiently performed by investigating at random certain accounts and certifying that the financial statement corresponded to the books of his employer. Ultramares Corp. v. Touche (1931) 255 N. Y. 170, 74 A.L.R. 1139.

The annotation in 74 A.L.R. 1153 discusses the liability of a public accountant.

Public contracts — *husband's employment of wife as teacher.* The Michigan supreme court in Thompson v. District Board, 252 Mich. 629, 74 A.L.R. 790, 233 N. W. 439, held that a member of a school board has, in a state in which a married woman's earnings are her own property, no such interest as will preclude him from signing on behalf of the district a contract employing his wife as a teacher, notwithstanding a statute declaring it to be illegal for any member of a board of education to be personally interested in any way, directly or indirectly, in any contract with the district in which he holds office.

The annotation in 74 A.L.R. 792 discusses relationship as disqualifying interest within statute making it unlawful for an officer to be interested in a public contract.

Public officers — *removal for bringing action.* The Ohio constitutional provision that all courts shall be open, and every person, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay was held to be violated by a rule promulgated by the chief of police prohibiting actions in the court by members of the police force. Christian v. Barry, 123 Ohio St. 458, 74 A.L.R. 497, 175 N. E. 855.

This question is annotated in 74 A.L.R. at p. 500.

Res ipsa loquitur — *actions against municipalities.* In Cleveland v. Pine, 123 Ohio St. 578, 74 A.L.R. 1224, 176 N. E. 229, it is held that in order to recover against a municipality under a general code provision for damages due to the falling into manhole in one of the sidewalks of a public grounds,

to wit: a park, under the control and management of the municipality, there must be proof of negligence and notice, constructural or actual; the doctrine of res ipsa loquitur not applying in such case.

Res ipsa loquitur is applicable in actions against a municipality for injuries from dangerous condition in parks, streets or highways is the title of the annotation in 74 A.L.R. at p. 1226.

Russian Marriage — *conflict of law as to.* The English court of appeals in a recent interesting case in Nachimson v. Nachimson (1930) Prob. 217, 74 A.L.R. 1517, determined that a marriage validly contracted in Russia, during the existence of which either party may not marry another, will be recognized elsewhere, although under the Russian law a marriage may be terminated either by mutual consent, registered at the proper office of registration, or by the unilateral desire of either party upon application to the court of law, by which a decree is issued as of course.

The annotation in 74 A.L.R. at p. 1533 discusses the recognition of foreign marriage as affected by the conditions or manner of dissolving it under the foreign law, or the toleration of polygamous marriages.

Sales — *implied warranty as to milch cows.* A description in an auction bill of cattle to be sold as cows mostly Jersey, all giving milk has been held an implied warranty that those offered as milch cows are reasonably fit for that purpose which warranty is breached when it subsequently appears that they are infected with a disease known as contagious abortion which renders their milk dangerous for use by human beings and destroys their ability to freshen and continue the production of milk. Moeckel v. Diesenroth (1931) — Mich. —, 74 A.L.R. 116, 235 N. W. 157.

The annotation in 74 A.L.R. at p. 118 discusses the existence of and scope of implied warranty of fitness on sale of live stock.

Search and seizure — *documents of person arrested.* The circuit court of appeals of the second circuit in United States v. Poller, 74 A.L.R. 1382, 43 F. (2d) 911, recently decided that the papers of a bonded truckman relating to earlier shipments, and his books of account, which contained no entries relative to the transaction in connection with which he was arrested for complicity in an attempted fraud on the United States customs, are improperly seized upon such arrest.

The question annotated in 74 A.L.R. at p. 1387 discusses the right of search and seizure incident to lawful arrest without a search warrant.

Search and seizure — *when permissible without warrant.* The supreme court of the United States in Husty v. United States, 282 U. S. 694, 74 A.L.R. 1407, 75 L. ed. 629, 51 Sup. Ct. Rep. 240, decided that the search of an automobile without warrant for liquor illegally transported or possessed is not prohibited by the Fourth Amendment to the Federal Constitution if the search is upon probable cause, and arrest for the transportation or possession need not precede the search.

An exhaustive annotation appears at p. 1418 of 74 A.L.R. on the question of constitutional guarantees against unreasonable searches and seizures as applied to search for or seizure of intoxicating liquor.

Statute of frauds — *effect of improvements by husband.* The Illinois court in McCallister v. McCallister, 342 Ill. 231, 74 A.L.R. 213, 173 N. E. 745, held that the acts of a husband

Case and Comment
THE LAWYERS MAGAZINE

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in fencing, improving, and increasing the production and value of a farm belonging to his wife, and erecting farm buildings thereon, and paying taxes, are not so referable to her alleged oral promise that, if he should do these things, the property would be his, as to take it out of the Statute of Frauds.

This question is annotated in 74 A.L.R. at p. 218.

Taxes — *provision of mortgages as to.* The provision in a mortgage empowering the mortgagee to pay, and add the sum so expended to the amount secured by the mortgage, any tax or assessment which may appear to be a lien against the property and making the mortgagee sole judge of the legality thereof, is not unconscionable or against public policy as ousting the court of jurisdiction to determine the legality of such tax or assessment, where the mortgagor might have paid it under protest and then brought action for its recovery.

The validity, construction, applicability, and effect of provision in real estate mortgage regarding payment of taxes or assessments by mortgagee is discussed in annotation in 74 A.L.R. at p. 506.

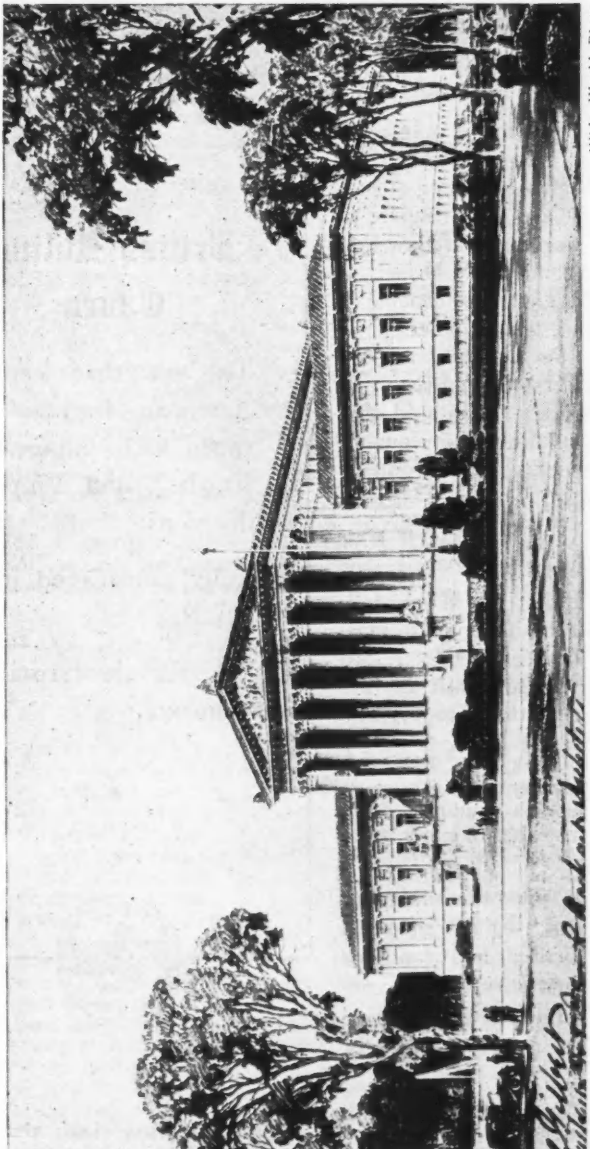
Usury — *constitutionality and effect of statute denying defense of usury to corporation.* The New York court of appeals in Jenkins v. Moyse, 254 N. Y. 319, 74 A.L.R. 205, 172 N. E. 521, held that to justify an inference that a corporate form was used to conceal an unlawful usurious transaction with an individual who desired to negotiate a loan upon the security of a mortgage, there must be proof at least that there was an individual transaction which the parties might desire to conceal.

The annotation in 74 A.L.R. 209 discusses decisions in regard to statutes denying defense of usury to corporation.

Wills — *acquiescence during lifetime of testator.* The Alabama court in Merchants' Nat. Bank v. Hubbard, 222 Ala. 518, 74 A.L.R. 646, 133 So. 723, held that a woman is not estopped to assert her statutory rights in the estate of her husband by her acquiescence in his lifetime in a provision of his will made to her in lieu of dower, when that provision falls short of adequacy of consideration, and in the absence of the circumstances necessary to justify the specific performance of a contract that the transaction had amounted to a solemn contract.

The subject of the annotation in 74 A.L.R. at p. 659 is, "Estoppel by conduct during testator's life to dissent from or attack validity of will."

The Force of Dicta.—General dicta upon supposed cases not considered in all their bearings, and at best inexplicitly stated, ought not to be taken as establishing important law principles. Per Marshall, Ch. J. Alexander v. Baltimore Ins. Co. 4 Cranch, 370, 2 L. ed. 650.



Wide World Photo

HOW THE NEW SUPREME COURT BUILDING WILL LOOK

An architect's drawing of the imposing structure which will be built in Washington at a cost of about $8,383,000 to house our Nation's highest judicial tribunal.

What the Grand Jury Owes to the Community

(*Continued from page four*)

"orderly liberty" to be expressed through the enforcement of the laws.

If you and other enforcing officers of this county are not adequate to cope with the violations of law that occur in this county, the remedy is to secure officers who are capable of doing so, and to apply to their qualifications the simple test suggested by Jefferson, another great American president, who said that the questions relating to the qualifications of an individual for public office are:

> "Is he capable, is he honest, is he faithful to the constitution?"

The attitude that you should take toward any debatable constitutional provision of law, is that expressed by Woodrow Wilson, still another great president of this country, who said:

> "I would rather fail in a cause that some day will triumph than to win in a cause that I know some day will fail."

In conclusion, upon this subject of law enforcement, which represents my firm conviction, and my final words to a grand jury, I have constantly kept in mind the admonition of the immortal Lincoln, when he said:

> "I am not bound to be right, but I am bound to be true,"

and that other inspired utterance of his:

> "Let us have faith that Right makes Might, and in that faith let us, to the end, dare to do our duty as we understand it."

With the Legal Bards

Attorney R. A. Hockensmith of Okmulgee, Okla., writes as follows:

"The famous Missouri Cow Case, which occupied the courts of that State for a decade or more, is about to be crowded out of front page position.

"Down in Oklahoma, a young oil field worker, on his way home from the lease collided with a cow belonging to a prominent dairyman. The cow turned out to be the finest cow in the county, and the dairyman brought suit for her alleged value—$150.00. Defendant countered that the collision was the cow's fault and that the dairyman owed the oil man $69 for repairing his flivver.

"A jury of six good men and true heard the first trial, but could not agree. A second jury heard the evidence and argument of counsel, and being fully advised in the premises, likewise reported a 'hung jury.'

"A third jury was summoned and gave judgment for the defendant, but taxed the costs against him. The defendant appealed to the district court from the J. P. court from an order overruling his motion to retax costs. The plaintiff also appealed from an order of the J. P. refusing a new trial. The District Court retaxed the costs and sustained the overruling of plaintiff for new trial. The dairyman appealed to the Supreme Court. Six months have already been devoted to the various legal sessions dealing with the case.

"Inspired by the ups and downs of the case, Karl E. Jones, a local young lawyer and bard, has unlimbered his trusty typewriter upon the values of seeming adversity, especially in times of depression."

Ye Muley Cow Case

By Karl E. Jones

of the Okmulgee (Okla.) Bar

One evening as the sun sank low
On rural scenes, where daisies grow,
A muley cow, in thotless mood
Stood chewing on her evening cud;
And without thot, in negligence
She sought the road and took her stance,
And there a car, of flivver size
Ran into her between the eyes;
The muley's looks were ruined, most:
She then and there gave up the ghost;
And ceased to be a live equation;
But subject for administration.
The owner of the muley cow
Said, "I'll have justice now, I vow.
That flivver driver pays a bounty;
She was the best cow in the county."
So were the thots of owner bent
As to the county seat he went;
And sought a lawyer who would function
With writ, demurrer and injunction.
Things folks must do for satisfaction,
As lawyers say, "a right of action."

So here we have a dandy row,
All started by a muley cow.
The lawyer, when he heard the tale
Said, "We'll have justice without fail;
I knew the cow, she chewed her cud
The finest in the neighborhood.
I've often thot, tho' it seem funny,
She must be worth a lot of money:
And justice will not fail to frown
On one who cruelly ran her down.
Of such fine cows there is a dearth,
Five Hundred Dollars was her worth.
But now that times be hard and thrifty
We'd better say one hundred fifty."
And so the plaintiff made his bill,
Well drawn, and prayed for judgment 'til
The court should say in judgment how
They pay him for his muley cow.
The flivver driver answered well;
The muley's fault, as he would tell.
His counsel stated, "I have seen
A cow's an obsolete machine.

No muley with a safe abode
Would amble out into the road.
To there get hit, and raise the dickens
With flivvers 'round as thick as chickens."
The court was moved, and stated how
His sympathy was with the cow.
How boyhood sentiment still clings;
He'd let a jury settle things.
And so six talesmen in he hies
To strike the scales from Justice's eyes.
Then counsel without questions leading,
Presented sides with legal pleading.
One told with feeling and appeal
How muley's demise made her feel;
And how the plaintiff's life-long station
Would suffer without compensation.
Defendant's counsel, drawn and tense
Dwelt on the muley's lack of sense.
And how the owner with a goad,
Had driven muley to the road.
He told cow history, and how
O'Leary's cow kicked up a row
And burned Chicago, caused distress
Thru bovine, pure dee cussedness.
He showed by tome and volume tall
That muley's value was but small;
And had she worn a golden collar
She wasn't worth a pewter dollar.
The jury listened to a man,
As only learned jurors can.
Debate is pleasant, when you see
The prospects of a jury fee.
But when decision time came 'round
They disagreed, so it was found.

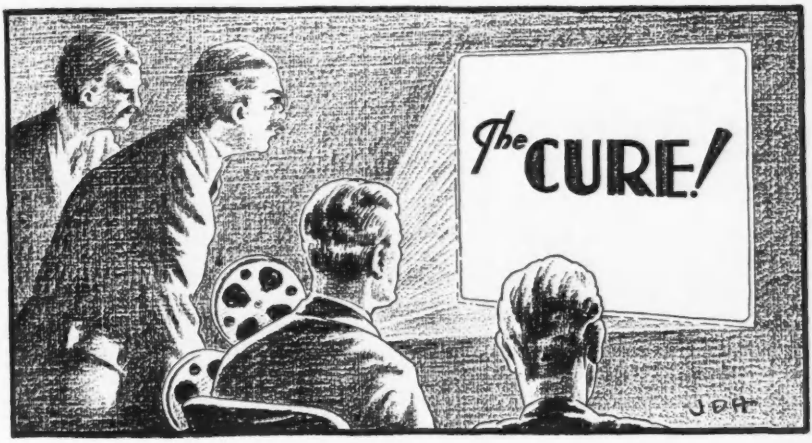
So did deliberations halt:
Was it the car or muley's fault?
They locked their horns and wouldn't budge.
And took their troubles to the judge,
Who said, "I'm awfully sorry, men,
We'll have to try this case again."
Three other juries came to date,
But none could judge poor muley's fate.
The counsels pawed the earth and air;
The judge looked bored and pulled his hair,
'Till justice gave up in a quivver
About the muley and the flivver.
The old car still runs every day;
And muley munches heavenly hay;
The jury fees are dissipated;
The witnesses all interrogated;
And still the question rankled now,
Who was at fault, the car or cow?
So in this life our troubles bring
Us loggerheads with everything.
And more's the pity now that we
The greater good for all can't see.
The muley and the motor car
Are not important things, by far.
The money spent to try their fate
Has helped us out a lot to date.
The judges' fees have bought his bed,
The jurors' children have been fed;
And now the witness shall not sorrow
For he shall feed upon the morrow.
The lawyers' fees were paid with thanks,
And swell their savings in the banks:
So to the muley, give concession,
She's helped a lot in this depression.

Where There's A Will

By Albert A. Woldman
of the Cleveland Bar

Believing that soon he would finish life's journey,
Old Silas Mahoney went to his attorney,
"When I have departed I want my estate, sir,
To go to my loved ones as I stipulate, sir,
So draw up a will that will set forth my wishes
That no heir of mine sir, however capricious
Can thwart my intentions, so please be real wary
That none of my wishes shall ever miscarry."

So wise Mr. Blackstein a lawyer of learning
With zeal for the interest of his client aburning,
Voluminous notes took, with skilled legal powers
Each item discussed, oh, for hours and hours,
From laws of descent and old bills of attainder
And famed Shelley's rule and contingent remainder,
Until he was certain beyond doubt or question,



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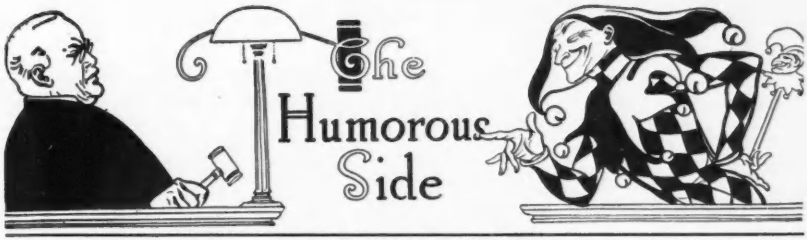
The will would conform to his client's suggestion.
The will soon was drafted and then came the hour
When the soul of old Silas like a weak wilted flower
On the wings of the wind like a fanciful bubble
Just wafted away to a land free of trouble.
But lo—ere the shattered old frame had been covered
By a merciful earth, all his relatives hovered
From obscurity's corners remote like the vulture,
Ready to show their deep love and sweet culture,
Their sorrow and grief—how death had bereft them—
But wond'ring how much the old miser had left them.
The seals soon were broken 'mid rich expectations,
From heirs disappointed then 'rose lamentations,
So daughters and sons of his sisters and brothers
And cousins and in-laws and granduncles' mothers,
And nephews forgotten and lovable nieces
Stood ready the testament to tear up to pieces.
So nieces and nephews and uncles and cousins
Start law suits and actions by tens and the dozens,
Each hour they're planning and scheming, conniving,
And meantime each day there are new heirs arriving,
And lawyers file pleadings 'thout any compunction
For certiorari and writ of injunction,
Quoting with eloquence the leading decisions
Together with all of the latest revisions,
Presenting their briefs of voluminous pages,
While medical experts as wise as the sages
Each other endeavor to trip up and tangle
And quibble and quarrel and argue and wrangle,
But knowing exactly where a pretty cent is,
Declare that old Silas was non compos mentis;
And dear ones are parted—Oh, mercy defend us!
And meantime expenses and costs are tremendous!
A decade has passed since the seals have been broken,
Decisions galore have been written and spoken,
Old Blackstein the learned and wise legal giant,
Has left this old earth and has gone to his client,
And so in that mystic and far-away region
Where shades of departed testators are legion
The lawyer and client each other are greeting
Perplexed and perturbed they're in conference meeting,
Bewildered, old Silas just can't understand it
Why relatives swore he's a moron and bandit,
Why 'n iron-clad will by a lawyer well written
With so many questions of doubt should be smitten,
But Blackstein assures him with great erudition,
The will is just perfect 'thout any omission,
And some day the court of appeals when convening
Perhaps will correctly interpret its meaning.



Mingle a little folly with your wisdom.—Horace.

A Unique Will.—A merchant was told he had a month to live—called in a lawyer—and said: "Fix it so that my overdraft at the bank goes to my wife—she can explain it. My equity in my car goes to my son. He will then have to go to work to keep up the payments. Give my good will to the supply houses. They took some awful chances on me and are entitled to something. My equipment you can give to the junkman; he has had his eye on it for several years—and I want six of my creditors for pallbearers. They have carried me so long they might as well finish the job."

—*Lackawana Jurist.*

Four-Footed Deputy.—The chief constable of a small English town was also an expert veterinary surgeon. One night his telephone bell rang.

"Is Mr. Blank there?" said an agitated voice.

Mrs. Blank answered yes, and inquired: "Do you want my husband in his capacity of veterinary surgeon or as chief constable?"

"Both, madam," came the reply. "We can't get our new bulldog to open his mouth, and—there's a burglar in it."

—*Boston Transcript.*

May Have Dreamt It.—"Are you positive," demanded counsel, "that the prisoner is the man who stole your car?"

"Well," answered the witness, "I was until you cross-examined me. Now I'm not sure whether I ever had a car at all."

—*Buffalo News.*

Electivity.—Said the successful lawyer, "When I was an infant, my good folks were undecided what I'd become when I grew up, and they struck on a plan. They gave me an apple, a prayer book and a dollar bill; representing farming, the clergy and banking, to see which one I'd take to. I ate the apple, read the prayer book, and put the dollar bill in my pocket. They decided I was a born politician!"

—*Exchange.*

To His Caddie—It's Your Guess.—A wise individual has said that to his doctor a man confesses his fears; to his minister, his weaknesses; to his lawyer, his mistakes.

—*St. Joseph News-Press.*

Reward of Chivalry.—Cries for help had attracted the lawyer's attention. A big man was beating a much smaller individual.

"Leave him alone!" he shouted, and throwing himself into the fray, knocked out the big man with a well-timed uppercut.

"Thanks," said the little man after he had pulled himself together. "Now, look here, you share this 10-pound note I took off 'im."—*London Opinion.*

A Lon Chaney.—He had just been worsted in a law suit, and he was very angry.

"I look upon you, sir, as a rascal," he said.

"You are privileged," said the rival attorney, "to look upon me in any character you care to assume."—*Answers.*

Beating the Game.—Lawyer.—"But, madam, you can not marry again. If you do your husband has clearly specified that his fortune will go to his cousin."

Fair Client.—"I know that. It's his cousin I'm marrying."—*Boston Transcript.*

Rarest Vintage.—A lawyer had made an exhaustive tour of France, but a friend

in Paris thought that as the crown of his whole experience he would take him to dine at Voisin's.

"Let's go to Voisin's," he said. "You'll get the most marvelous old Burgundy and Bordeaux wines."

"Well," the lawyer answered, "I'll go to Voisin's, if you like, but don't talk to me about old Burgundy and Bordeaux. What I am looking for is a good reliable French bootlegger who can get me a drink of ice water."—*New York Times.*

Howlers, 1931 Crop.—"A connoisseur is a person who stands outside a picture palace."

"Matrimony is a place where souls suffer for a time on account of their sins."

"A polygon is a dead parrot."

"The 'Compleat Angler' is another name for Euclid, because he wrote all about angles."

"Ali Baba means being away when the crime was committed."

—*Passing Show (London).*

Birth of an Alibi.—Lawyer.—"It would be better if you could prove an alibi. Did anybody see you at the time of the crime?"

Client.—"Fortunately, no."

—*Zuricher Illustrierte.*

Besetting Weakness. — Constable. — "The accused is an out-of-work plumber, sir, and attended a smash-and-grab raid."

Magistrate.—"And he failed?"

Constable.—"Yes, sir, 'e forgot the brick!"—*Humorist.*

Poultry Note.—Lawyer.—"These chickens in the road cause a lot of accidents."

Farmer.—"But not as many as the chickens beside the driver."

—*Long Beach (Calif.) Press-Telegram.*

Why Comment on the Facts?—A misdemeanor case was on trial before a Justice of the Peace and a jury. After much thoughtful consideration, the learned Justice read to the jury the following instruction requested by the defendant's counsel.

"Gentlemen of the Jury: You have no right to assume that the testimony of the complaining witness given in this case is true from the mere fact that he was not stricken dumb while testifying upon the witness stand, as the day of miracles has long since passed."

It is not surprising that the defendant was acquitted. The complaining witness, however, feeling bitterly aggrieved, asked the foreman of the jury how the verdict was reached, in the face of the convincing evidence of the defendant's guilt. The foreman replied: "What else could we do under the Judge's instructions? He made it plain enough that if the day of miracles had not long since passed, he would have expected to see you stricken dumb before you finished your testimony."

—*Los Angeles Bar Ass'n Bulletin.*

T'was Ever Thus!—The late John S. Chapman is best remembered by the Bar as a lawyer of profound learning and a forceful and eloquent advocate. His friends, however, recall that behind his dignified bearing and serious manner, there was concealed a keen wit, of which the following is an example:

Upon leaving the courthouse after a masterful argument to the Court, Mr. Chapman was congratulated by an associate in the case. "That was a wonderful argument," he said. "I only hope that it did not go over the Judge's head. The Judge, you know, is no longer the lawyer that he used to be."

"No," said Chapman, "he is not, and what is more, he never was."

—*Los Angeles Bar Ass'n Bulletin.*

Beginning Life's Battles.—New Neighbor.—"Have you any brothers and sisters, dear?"

Margery.—"I had a brother, but we're divorced."

Neighbor.—"Divorced?"

Margery.—"Yes; pa's got Jackie and ma's got me."—*Boston Transcript.*

Fanned Out.—"I've had a hard day," said the tired lawyer aboard the evening train for home. "One of my office boys asked the afternoon off to attend his aunt's funeral. So, being onto his scheme, as I thought, I said I'd go along too."

His friend chuckled. "Great idea! Was it a good game?"

"That's where I lost out," sadly admitted the lawyer. "It was his aunt's funeral."

—*Boston Transcript.*

Appropriate Names.—Robert L. Shipp of the Miami, Florida Bar informs us of two divorce cases pending in the Circuit Court of Dade County, Florida (1) Hope v. Hope and Lonesome v. Lonesome.

And that Florida until recently did have have a prosecuting attorney by the name of Lawless.

Attorney Edward E. Brogan of the New York state department of law writes us.

"Here are two cases I came across recently which appealed to my sense of humor, and I am passing them along to you in the hope that they may bring a smile to the lips of other members of the bar:

"'The defendant negligently left maple syrup in his unenclosed shed, and the plaintiff's cow, while running at large, drank it and died, and it was held that the defendant was not liable.'" Busch v. Brainard, *1 Cow*, 78.

Plaintiff stepped on stone covering a basin in gutter of street. The stone broke and plaintiff was injured. Treadwell v. City of Yonkers, 192 App. Div. 421.

And while on this subject how about Fry v. Smellie (1912) 3 K. B. 282, Ann. Cas. 1913C, 604.

No Concern of His.—A landlord wrote to one of his tenants who was a lawyer: "I regret to inform you that my rent is much overdue. Will you kindly forward me a check?"

Back went the reply: "I see no reason on earth why I should pay your rent. I can't even pay my own."—*London Evening News.*

One Foot Backward.—The buxom woman was standing in the street car, holding to a strap. The lawyer was seated, reading. The car swung and she stepped on his foot.

"Madam," he barked, "will you please get off my foot?"

"Put your foot where it belongs!" she replied sharply.

"Don't tempt me, madam! Don't tempt me!" he snapped.—*Builder and Owner.*

Educated.—Lawyer.—"Do you understand the nature of an oath, Madam."

Witness.—I should say I do. I was in the car that bumped into your car against signals this morning."